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Report of the Secretary-General pursuant to paragraph 30 of resolution 1546 (2004)

I. Introduction

1. In paragraph 30 of its resolution 1546 (2004) of 8 June 2004, the Security Council requested the Secretary-General to report to the Council within three months from the date of the resolution on the operations of the United Nations Assistance Mission for Iraq (UNAMI) and, on a quarterly basis thereafter, on the fulfilment of all of the Mission's responsibilities. The present report is the fifth submitted pursuant to that resolution.

2. The report provides an update on United Nations activities in Iraq since the last report (S/2005/373 of 7 June 2005). It provides a summary of key developments in Iraq, particularly with regard to the political transition, including the constitution-making process and regional developments pertaining to Iraq.

3. In response to my letter addressed to the President of the Security Council dated 4 August 2005 (S/2005/509), the Council, on 11 August, unanimously adopted resolution 1619 (2005), by which it extended the mandate of UNAMI for another period of 12 months from the date of the resolution and expressed its intention to review the mandate of UNAMI in 12 months or sooner, if requested by the Government of Iraq.

II. Summary of key developments in Iraq

A. Political process

4. Subsequent to the elections held on 30 January 2005, the convening of the Transitional National Assembly on 16 March and the formation of the Transitional Government on 28 April marked a new phase in Iraq's political transition process that was covered in my previous report. Iraq's evolving transition during the period under review was dominated by the writing of a permanent constitution and by preparations for the referendum on the constitution and for the elections for a permanent government.

5. The delays in convening the Transitional National Assembly and forming the Transitional Government reduced the time available for completing the draft constitution by the deadline of 15 August, as stipulated by the Transitional

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Administrative Law. Following the establishment of the Constitution Drafting Committee of the Transitional National Assembly on 10 May, additional time was required to make the Committee more inclusive taking into account the aspirations of all Iraqi political constituencies.

6. A key issue was how to ensure representation of those constituencies which did not or could not participate in the January elections. The Committee was originally composed of 28 members from the United Iraq Alliance, 15 from the Kurdistan Alliance and 8 from the Iraqi List, together with 4 members representing Turkmen, Assyrian Christians and Yezidis. Only two members were Sunni Arabs. The impasse over the lack of appropriate Sunni Arab representation on the Constitution Drafting Committee led to substantial negotiations on the methods and manner of identifying credible representation. As a result of political facilitation by my Special Representative assisted by the UNAMI Office of Constitutional Support, coupled with the efforts of the Drafting Committee and key Iraqi political leaders, 15 Sunnis with 10 advisers were brought into the process through the formation of a Constitution Drafting Committee, which included the members of the National Assembly's Drafting Committee and the additional Sunni Arab representatives. The first meeting of the Committee was held on 5 July. The new members joined the six subcommittees that had already started work on the chapters of the constitutional text, which covered fundamental principles, human rights and fundamental freedoms, the structure of government, federalism, constitutional protection and final provisions.

7. The security situation in Iraq inevitably affected the constitution-making process. Among other incidents, representatives of the Sunni Conference were repeatedly threatened because of their participation in the constitutional proceedings. On 19 July 2005, Mijbil Sheikh al-Issa, a Sunni Arab representative on the Committee, Dahmen al-Jabouri, an adviser to the Committee, and their driver were assassinated in Baghdad. In response to this assassination the representatives of the Sunni Conference temporarily suspended their participation and imposed a set of demands for their return, including an investigation into the incident, and that they be accorded the same protection arrangements as the other members of the Committee. Through efforts of the Transitional Government and the Assembly, assisted by representatives of the international community, including the United Nations, the representatives of the Sunni Conference returned to the Committee on 25 July.

8. On 1 August, the Constitution Drafting Committee decided not to request an extension and to aim at completing the draft by 15 August. Extensive discussions and negotiations continued both inside and outside the Committee. President Jalal Talabani convened a leadership conference on 7 August that brought Iraq's political leaders together to forge a political compact on outstanding issues. My Special Representative remained in close contact with the participants through regular and intensive consultations and by providing compromise positions developed by the UNAMI Office of Constitutional Support for the consideration of the parties.

9. On 15 August, the Transitional National Assembly, by a unanimous vote, adopted a resolution amending the Transitional Administrative Law to allow a further seven days to come to an agreement on outstanding issues. Following further negotiations, the Speaker of the Transitional National Assembly declared on 22 August that he had received a draft text of the constitution, but that it was not yet

complete. He postponed finalization of the document by a further three days to allow more time to reach consensus on outstanding issues among all the parties. A second three-day continuation was declared on 25 August. On 28 August the draft constitution was resubmitted to the National Assembly's Constitution Drafting Committee to be finalized. On the same day, a draft text was submitted to the full Transitional National Assembly, where it was read out but no vote was taken. However, at the time of writing of this report, agreement on several issues remained elusive and negotiations between the parties continued.

B. International and regional developments

10. On 22 June, the European Union and the United States of America jointly hosted the Iraq International Conference in Brussels at the request of the Transitional Government of Iraq. More than 80 countries and organizations, including the United Nations, attended the Conference. The Conference was the latest of a series of international initiatives on Iraq, including the initiative of the neighbouring countries and the international ministerial meeting on Iraq hosted by Egypt at Sharm el-Sheikh on 23 November 2004. The preparatory process was led by a steering group composed of the European Union, the United States of America, Iraq, Egypt, Japan, the Russian Federation and the United Nations.

11. The meeting focused on building a renewed international partnership with Iraq based on a comprehensive approach, supporting Iraq's political transition process, encouraging its economic recovery and reconstruction, and helping to establish the rule of law and public order in the country. The Transitional Government of Iraq, led by Prime Minister Ibrahim Ja'afari, set out its vision and strategy in these areas, stressing priority activities. Participants resolved to support the Transitional Government in accordance with resolution 1546 (2004).

12. I attended the conference accompanied by my Special Representative for Iraq, Ashraf Qazi, and my Deputy Special Representative for Humanitarian, Reconstruction and Development Affairs, Staffan de Mistura. In my remarks to the conference, I reiterated the determination of the United Nations to respond to the expectations of the Iraqi people and to accompany them all the way on their historic journey of transition. I also expressed the hope that the new partnership forged at the conference would mean wider and deeper consensus in the Security Council in support of efforts to implement resolution 1546 (2004).

13. The second meeting of the Ministers of the Interior of the countries neighbouring Iraq was hosted by Turkey in Istanbul on 18 and 19 July 2005. It was attended by Bahrain, Egypt, Iraq, the Islamic Republic of Iran, Jordan, Kuwait, Saudi Arabia and the Syrian Arab Republic. My Deputy Special Representative for Political Affairs in Iraq, Michael von der Schulenburg, attended the meeting. The final communiqué emphasized increased cooperation on border security, preventing terrorism, and the pursuit of justice against the previous regime in Iraq.

III. Update on the activities of the Mission

A. Political activities of the Special Representative of the Secretary-General

14. My Special Representative, continued to promote an inclusive political process that encouraged the participation of all political constituencies. He has met with as many Iraqi representatives as possible, both inside and outside the Government, with a view to broadening the basis of support for and participation in the political process. His regular discussions with key leaders consistently encouraged candid dialogue and collaborative problem-solving, while helping to forge consensus. This quiet diplomacy has remained central to United Nations efforts to promote national dialogue and reconciliation among Iraq's various constituencies as the overriding priority of the mandate of UNAMI.

15. My Special Representative has encouraged dialogue on the core issues of the constitution drafting process, while creating opportunities for the various groups to exchange their views. To encourage progress on the contested aspects of the Constitution he met with members of the Subcommittee on Federalism of the Constitution Drafting Committee and members of the group of Sunni Arab representatives who had recently joined the Committee. In addition, he met regularly with an informal commission of Kurds from Kurdistan which was created to work with the United Iraqi Alliance Committee of Seven to work through contentious issues.

16. My Special Representative has also met regularly with the President and the two Vice-Presidents, the Prime Minister and his deputies, the Speaker and Deputy Speakers of the Transitional National Assembly, and the Ministers of Foreign Affairs, Finance, Planning and Development, Interior, Justice, and Defence. His talks focused on the political processes, developments relating to human rights, good governance, rule of law and reconstruction and development. He also held meetings with representatives of regional governments and leaders from constituencies not directly represented in the National Assembly, including women's groups. On 10 July 2005, my Special Representative also met with Grand Ayatollah Ali al-Sistani in Najaf. On the same visit he also met with Moqtada al-Sadr. Both Mr. Al-Sistani and Mr. Al-Sadr highlighted the importance of a continued United Nations role in assisting the process of dialogue and national reconciliation. Close contacts have also been maintained with representatives of a broad range of Member States and other official delegations both inside and outside Iraq.

17. On 12 June the inaugural session of the Kurdistan National Assembly elected Massoud Barzani to a four-year term as President of the Kurdistan Regional Government. My Special Representative attended the opening of the Kurdish Parliament, and delivered an address on behalf of the United Nations to the newly elected body.

18. In all of his discussions and meetings, my Special Representative has stressed the importance of incorporating the contributions of as many Iraqis as is possible to restore durable peace and stability. He has promoted the development of a distinctly Iraq-led and Iraq-owned transition to a permanent government in Iraq.

B. Constitutional support activities

19. In accordance with resolution 1546 (2004) and at the invitation of the Speaker of the Transitional National Assembly, my Special Representative and UNAMI made considerable efforts to promote dialogue and consensus-building on the drafting of a national constitution. To this end, my Special Representative and the UNAMI Office of Constitutional Support have held extensive consultations with the political leadership, the Constitution Drafting Committee, and members of Iraqi civil society with a view to encouraging an inclusive, participatory and transparent constitution-making process that is responsive to the key demands of all Iraqi constituencies.

20. UNAMI carried out its mandate in cooperation with the United Nations Development Programme (UNDP), the United Office for Project Services (UNOPS), the Office of the United Nations High Commissioner for Human Rights and the Economic and Social Commission for Western Asia. Its main funding (approximately $24.5 million) came from a number of international sources, including the European Union, Canada, Denmark, the United Kingdom and the United States operating through the United Nations trust fund. UNAMI established the United Nations International Assistance Programme for Constitution-making in Iraq, through which it coordinated its activities with a number of international non-governmental organizations. The line work of assistance in the field was carried out by a variety of Iraqi governmental and non-governmental institutions. UNAMI has supported the constitution-making process in Iraq in five distinct areas, as outlined below.

21. *Facilitation efforts and the good offices of my Special Representative and UNAMI*. Ensuring the participation of all key constituencies in the constitutional process has been a major challenge. Through extensive contacts both inside and outside Iraq, my Special Representative and his constitutional team sought to promote an inclusive, participatory and transparent process.

22. *Provision of outreach and media support*. The Office of Constitutional Support assisted in setting up the infrastructure of the Constitution Drafting Committee's Public Outreach Unit, developing outreach strategies and campaign action plans; providing a database of public submissions, finances for staff salaries and office rentals for the analysis unit; and identifying and contracting with 51 newspapers, 18 radio and 20 television stations and a graphic designer for television production. The Unit has submitted regular reports to the Constitution Drafting Committee for its consideration.

23. *Provision of international expertise and advice*. Professional expert advice on various constitutional issues was made available to the Constitution Drafting Committee. The Committee requested UNAMI assistance in developing substantive aspects of the constitution through analyses, commentaries on drafts, option papers and best practices. At the outset of the Committee's proceedings, the Office of Constitutional Support prepared an orientation package on comparative constitution-making for members and organized consultations with international constitutional experts. Regular seminars and small group consultations with members of the Committee have provided valuable exposure to best practices found in constitutions around the globe. A dossier on processes and experiences in constitution-making was distributed to members of the Committee in Arabic.

24. *Institutional support*. Several types of material and non-material support for the constitutional process were built into the UNAMI operational plan. From an offer of an initial needs assessment for the Constitution Drafting Committee to carry out its work, the Committee was provided with direct and indirect assistance to build its capacity.

25. *Donor coordination*. International coordination efforts among interested organizations, Member States and non-governmental organizations began in Baghdad in November 2004. In the interest of transparency, the secretariat of the Transitional National Assembly was invited to attend the meetings. Those meetings continued on a regular basis and in time became more operational and were subdivided into smaller coordination committees on outreach and knowledge-sharing.

26. Through the Public Outreach Unit of the Transitional National Assembly's Constitution Drafting Committee, supported by the UNAMI Office of Constitutional Support and other international actors, an Iraqi media and civil society support campaign was launched, promoting maximum awareness and participation of all sectors of Iraqi life. An intensive media campaign was conducted via television, radio and the newspapers. Over 1,250,000 submission cards, 600,000 questionnaires and several hundred submission boxes were distributed throughout the country. The Committee received about 450,000 submissions through the submission boxes, collections at mosques and e-mails, as well as through questionnaires conducted by independent Iraqi civil society organizations supported by the international donor community. The Committee and independent Iraqi non-governmental organizations supported by the international donor community also organized over 3,000 workshops.

27. During the next phase of the constitutional process, the Office of Constitutional Support will assist in public education efforts to help ensure that Iraqis are able to make an informed choice in the forthcoming referendum on the constitution. UNAMI is planning to provide technical advice and capacity-building for the implementation of the institutions created by the constitution.

C. Electoral assistance activities

28. After the writing of the Iraqi constitution, the organization and conduct of the constitutional referendum to be held by 15 October 2005 and the general elections planned no later than 15 December 2005 are important milestones in Iraq's political transition process. The UNAMI electoral team, under the direction of its new Chief Electoral Officer, David Avery, continues to advise and support the Independent Electoral Commission of Iraq, as well as the Transitional Government and the Transitional National Assembly, on the process of holding elections.

29. At the request of the Electoral Commission, the Electoral Assistance Division of the Secretariat deployed a needs assessment mission to Iraq from 5 to 26 June to review the entire range of electoral planning issues. The mission presented its findings at a workshop organized by the Division in Jordan from 28 to 30 June, which was also attended by members of the Electoral Commission, the Director of the Electoral Assistance Division and senior experts. The conclusions of the needs assessment mission and the Jordan meeting were the basis of a "critical path" document outlining tasks, deadlines and resources required for the United Nations to assist the Electoral Commission in fulfilling its mandate. The key tasks identified as

requiring United Nations assistance were (a) updating the voter register; (b) establishing the legal and regulatory framework for elections; (c) design and implementation of effective public information campaigns; (d) enhancement of Electoral Commission capacities; (e) certification of political entities and candidates; (f) increasing the capacity of Governorate electoral offices; (g) assistance with polling, counting and seat allocation; and (h) coordination of international assistance. My Special Representative and the UNAMI Electoral Office have since been working closely with the Electoral Commission to achieve each of these tasks.

30. Since the issuance of the last report, United Nations electoral support has encompassed three main tasks, namely, (a) consultations with the Transitional National Assembly and the Independent Electoral Commission of Iraq to promote an agreement on the electoral system and to assist in the establishment of a legal and regulatory framework for elections; (b) provision of technical assistance to strengthen central and local Electoral Commission capacities, including personnel, institutional, logistical, operational, technical and administrative capacities; and (c) continuation of the United Nations lead role in coordinating international electoral assistance.

31. The Transitional National Assembly and the Independent Electoral Commission began preparations for the constitutional referendum planned for 15 October. On 25 July, the Assembly adopted the referendum law, which was signed by the President. There was much debate over the term *nakhibin*, which could be interpreted to mean either votes cast or registered voters. Given the importance of the interpretation of the word, a political decision in principle was made on 7 September to have the Transitional National Assembly adopt a resolution clarifying the matter.

32. On 8 August, the Transitional National Assembly requested United Nations assistance in drafting a new electoral law. My Special Representative held several meetings with members of the Assembly's Legal Committee, as well as with leaders of political entities in an effort to promote agreement on the electoral system and the electoral law. The UNAMI Electoral Office outlined the technical, operational and financial implications of the different electoral systems, and facilitated an agreement among the main parliamentary blocks on a draft electoral law.

33. The UNAMI Electoral Office has been assisting the Electoral Commission in drafting the required procedures and regulations, and in completing logistical, operational and security preparations for the referendum and elections. The process of updating the voter register lasted from 3 to 31 August. In the Al-Anbar Governorate the process was extended until 7 September. By 21 August, 97 per cent of the planned voter registration centres had been opened. At the conclusion of the voter registration update in 17 of the 18 Governorates, approximately 908,000 additions, amendments and deletions had been recorded. In addition, a major public information and outreach campaign began late in July. The Electoral Commission established calling centres to address questions from the public on the conduct of the voter registration update. Citizens can also verify if their names were included in the voter registers. As at 21 August, the Electoral Commission had received more than 70,000 calls.

34. Most of the Electoral Commission offices in the Governorates have finalized the identification of the 31,441 polling centres planned for the conduct of the

referendum in October. The printing of some 20 million referendum ballots and the updated voter registers is to be completed by the end of September. The Electoral Commission, with the support of the UNAMI Electoral Office, is coordinating with Iraqi security forces and the Multinational Force the establishment of security arrangements for the distribution of electoral materials and for the day of the referendum. In addition, the registration of observers has begun. Training courses for electoral officials are in progress and will eventually involve some 150,000 Iraqi electoral officers.

35. These electoral events, coupled with major changes in the electoral system used for the January elections — proportional representation based on a single national constituency — represent a major challenge for the timely conduct and quality of the December elections.

36. International financial support through the electoral cluster of the International Reconstruction Fund Facility for Iraq remains a crucial factor in the timely and successful conduct of the scheduled electoral events. As highlighted at the recent meeting of donors held in Jordan in July, approximately $107 million in international funding for the referendum and elections is urgently needed.

D. Reconstruction, development and humanitarian assistance

37. In accordance with paragraph 7 (b) of resolution 1546 (2004), UNAMI continued to support the efforts of the Government of Iraq in the areas of reconstruction, development and humanitarian assistance. The establishment of the Transitional Government facilitated communication and coordination in Iraq and established clear points of contact. Despite the security constraints limiting activities inside Iraq, UNAMI and United Nations programmes and agencies carried out the following core activities: (a) strengthening the capacity of local ministries to meet the humanitarian needs of the local population; (b) coordinating the delivery of humanitarian goods and services; (c) assisting in restoration of public services and infrastructure; and (d) continuing to exercise a leading role in donor coordination.

38. Both inside and from outside Iraq, and in close collaboration with key Government Ministries, UNAMI and the United Nations country team coordinated and delivered assistance through the cluster model. The country team undertook an exercise through which the United Nations strategy document was revised with the purpose of streamlining United Nations activities and ensuring continuing relevance to Iraqi priorities. Through this process the country team was also able to revise its operational structure which resulted in a reduction of the number of clusters from 11 to 7.

39. At the fourth meeting of donors to the International Reconstruction Fund Facility for Iraq, held on 18 and 19 July on the Dead Sea, Jordan, the efforts of UNAMI were again recognized and strongly supported. The meeting, chaired by the Government of Canada and hosted by the Government of Jordan, was an opportunity for the Transitional Government of Iraq to present its national development strategy for 2005-2007. This proposal embodies the Government's vision and strategic priorities for reconstruction and development with a view to strengthening the foundations of economic growth, revitalizing the private sector, improving the quality of life, strengthening good governance and improving

security. The meeting reviewed progress made and lessons learned, covering both multilateral and bilateral reconstruction activities in Iraq.

40. UNAMI supported the establishment of a new donor coordination mechanism, chaired by the Ministry of Planning and Development Cooperation, thereby giving the Iraqi leadership a greater voice in the rebuilding process and enhancing partnerships among all relevant stakeholders. To further enhance cooperation, UNAMI held a series of meetings with the Ministry of Labour and Social Affairs, the Ministry of Migration and Displacement, the Ministry of Planning and Development Cooperation, the Kurdistan Regional Government's Ministry of Humanitarian Aid and Cooperation, and other representatives in the Government of Iraq.

41. Successive military operations have greatly affected the humanitarian situation in Iraq. For example, in the western Al Anbar Province, there have been new displacements of the local population near Al-Qa'im and more recently near Karabila, Hadithah and Hit. In response, United Nations agencies used inter-agency relief stocks and emergency grants from the Office for the Coordination of Humanitarian Affairs and UNAMI to provide an immediate and targeted distribution of water, food and non-food items to over 13,300 conflict-affected families in approximately 45 locations across the province. The areas of Hit and Hadithah, which had received internally displaced persons during the previous Fallujah crisis, experienced a new influx from Al-Qa'im because of renewed fighting. It was estimated that approximately 3,000 families were displaced during this period.

42. The Emergency Working Group continued to monitor the situation in Iraq. While humanitarian aid moved towards Al-Qa'im relatively unhindered, convoys were delayed because of roadblocks and numerous checkpoints. A civil-military liaison officer is being recruited to address these issues. The Emergency Working Group also learned that internally displaced persons were having great difficulty in collecting food rations from the Iraq public distribution system, owing to their relocation and the inability of the system to respond to moving beneficiary populations. In addition, lack of security for transport of rations caused further delays in delivery to beneficiaries. The United Nations has been working closely with the relevant government body to resolve the problem.

43. At the request of the Government, the United Nations is initiating the steps leading towards a national census. The United Nations country team will support the planning and implementation of this important event by providing technical support, such as GIS satellite imaging and mapping expertise, and funding to the Iraqi Central Organization for Statistics and Information Technology located within the Ministry of Planning and Development Cooperation, which will carry out the census.

E. International Reconstruction Fund Facility for Iraq

44. As at 31 July 2005, the total contributions to the United Nations Development Group Iraq Trust Fund of the International Reconstruction Fund Facility for Iraq amounted to $668 million. A total of 59 projects valued at $588 million had been approved by the end of July for funding under the Iraq Trust Fund. At the same time, contracts worth $422 million had been entered into (72 per cent of approved funding) and $246 million (42 per cent of approved funding) had been disbursed.

This represents significant progress in the implementation levels since the end of March, when the corresponding figures were $281 million (54 per cent of approved funding at the time) and $153 million (30 per cent). At the fourth donor meeting on the Dead Sea, Jordan, donors announced their intention to provide additional funding to the Iraq Trust Fund to support the political process and expand reconstruction and rehabilitation activities. A major new contribution of $115 million from the European Commission was deposited on 12 August 2005 and significant deposits from other donors are expected in the near future.

45. The Donor Committee accepted the first official six-monthly report to donors of the Iraq Trust Fund and the summary update to the end of June 2005. It was reported that service delivery coupled with capacity and policy development was strong, specifically with respect to 27 projects to provide essential services, including education, health, water, sanitation, electricity and housing. It was also reported that the United Nations country team had encountered a number of hurdles with respect to implementation, such as insecurity, the pace of decision-making in Iraq, the paucity of reliable data and the non-optimal local contracting conditions leading to significant cost increases.

46. As part of a public information campaign, UNAMI created an information kit for all participants in the Reconstruction Fund Facility, outlining the country team's key humanitarian, reconstruction and development programmes in Iraq. The kit was also made available to members of the Security Council during an informal meeting on 9 August 2005.

47. A number of lessons have been learned from the operations of the Iraq Trust Fund. The multi-donor, multi-agency trust fund approach has been effective in enabling donors to fund projects through a single channel, reducing transaction costs to Iraq, donors and the United Nations Development Group and avoiding duplication. Greater Iraqi ownership; transparency and accountability; and maximum reliance on national and subnational implementing partners are of prime importance. The Donor Committee has agreed in principle to a joint donor impact evaluation of the Reconstruction Fund Facility, which would build on the independent lessons learned and review process and a World Bank internal assessment. The Committee revised the terms of reference of the Reconstruction Fund Facility to reflect new Iraqi donor coordination.

F. Human rights activities

48. The human rights situation in Iraq continues to give rise to serious concerns. Human rights violations are reported by local human rights groups, in conversations by the UNAMI Human Rights Office with Iraqis and in the local and international media. Direct investigations into human rights violations remain a challenge because of the current security situation.

49. Ongoing insurgent attacks and acts of terrorism, violent crime, including kidnappings and torture, and the adverse effects of military action represent major sources of human rights violations in Iraq. Civilians once again bore the brunt of the casualties during the reporting period, as witnessed in a number of mass casualty attacks. Figures made available by the Forensic Institute in Baghdad show that some 1,100 bodies, of which over 80 per cent bore evidence of death from abnormal causes, were received by the Institute in the month of July from the Baghdad area

alone far in excess of the averages in previous months. Those figures point to a steadily deteriorating trend and provide an important indicator of the absence of protection of the right to life which prevails at this time in Iraq.

50. There is also continuing concern about military operations conducted by the Multinational Force in the north and north-west of Iraq, resulting in civilian deaths, injury and displacement from excessive or apparently indiscriminate use of force. The current level of violence in Iraq has also resulted in excessive use of force by Iraqi security forces who are often poorly trained with regard to the treatment of persons and property. In addition, mass arrests are carried out by Iraqi police and special forces, acting alone or in association with the Multinational Force, often without attention to due process. Reports of ill-treatment of detainees and inadequate judicial procedures continue. Furthermore, first- and second-hand accounts from Baghdad, Basra, Mosul, Kirkuk and the Kurdish Governorates consistently point to the systematic use of torture during interrogations at police stations and other premises, many belonging to the Ministry of the Interior.

51. My Special Representative and the UNAMI Human Rights Office held a number of meetings with the Government of Iraq (Prime Minister, Minister of Justice, Minister of the Interior, Minister of Defence, Inspector-General and Acting Minister of Human Rights) and with members of the international community to bring to their attention the serious allegations of human rights violations and to call for investigations and due process.

52. The large number of detainees being held without due process remains a source of concern. According to the Ministry of Human Rights, approximately 7,300 detainees are held by the Ministry of Justice, 120 by the Ministry of Defence, 2,300 by the Ministry of the Interior and around 9,600 by the Multinational Force. The UNAMI Human Rights Office defined a strategy to address the issue of detainees with the Iraqi authorities and with the Multinational Force, and will implement this strategy in the coming months. From 24 to 27 August, the Multinational Force released nearly 1,000 detainees from the Abu Ghraib prison, at the request and with the assistance of the Transitional Government of Iraq.

53. Operating under a decree of the Government, the Ministry of Human Rights and UNAMI are establishing a national centre for missing and disappeared persons. A draft law on the establishment of the national centre has been completed and is due to go to the National Assembly shortly, as is a draft law on the protection of mass graves.

54. On 8 August, the Government of Iraq reinstated capital punishment, which had been abolished by a decree of the Coalition Provisional Authority dated 10 June 2003. On 17 August, the Vice-President authorized the execution of three men convicted of kidnapping, killing and rape. The execution was carried out on 31 August. In two statements, on 20 August and 3 September, my Special Representative expressed deep regret over the reinstatement of the death penalty and recalled that the Commission on Human Rights at Geneva has condemned the application of the death penalty, most recently in resolution 2005/59 of 20 April. On 24 August, another man, convicted of murder, was sentenced to death in Kut.

55. On 3 August, the Transitional National Assembly approved a law presented by the Iraqi National Congress, which replaces the Iraq Special Tribunal established as an independent entity by the Governing Council on 10 December 2003 by the Iraq

Supreme Criminal Tribunal, to be incorporated in the regular federal court system. The new law does not appear to have addressed a number of human rights concerns that existed with regard to the previous Tribunal, such as the lack of transparency in proceedings, application of the death penalty, and the rights of the accused. The UNAMI Human Rights Office is currently discussing options to coordinate the flow of information.

G. Public information activities

56. The UNAMI Public Information Office continued its efforts to raise awareness of the Mission's political, humanitarian and reconstruction work. The Office has engaged in other outreach activities, including raising public awareness of the constitution-making process. It launched "The Constitutional Corner", a newspaper profile that appears weekly in a major newspaper based in Baghdad and highlights a different aspect of the constitution each week. The same profile has also appeared in the Kurdish media.

57. The Office coordinated press outreach for UNAMI during the Iraq International Conference held in Brussels in June and spearheaded a media campaign ahead of the donor meeting of the International Reconstruction Fund Facility for Iraq held at the Dead Sea in Jordan in July.

IV. Security and operational issues

A. Security

58. The security situation in Iraq remains a matter of serious concern. The unfolding of the political process has been accompanied by a rise in violence, intimidation and murder. A high number of attacks in Baghdad and other parts of the country led to a large number of casualties, particularly among civilians. Their pattern further highlights the fact that no community — Kurd, Shia or Sunni — is immune from violence. Indeed, attacks by hostile elements during the reporting period have reached their highest levels since the elections of January 2005, resulting in the deaths of a large number of Iraqi civilians, members of the Iraqi security forces, and personnel of the Multinational Force.

59. While violence continues to occur across most of the country, Baghdad, Mosul and the western Province of Al Anbar have been the areas worst affected. The south and Kurdistan have been the regions least affected. The sophistication, scale and lethality of attacks has increased, necessitating the ongoing review of United Nations protection arrangements, in collaboration with the Multinational Force. Perhaps the most worrying developments with respect to United Nations security have been the unprecedented attacks on diplomats. United Nations staff members therefore continue to be at considerable risk.

60. On 4 August, the Security Council adopted resolution 1618 (2005), in which it condemned without reservation and in the strongest terms the terrorist attacks that had taken place in Iraq. The Council also took note of the attacks in recent weeks which had resulted in over 100 deaths, including 32 children, employees of the Independent Electoral Commission of Iraq, and a member and an expert adviser of

the Commission charged with drafting a permanent constitution. The Council also strongly urged Member States to prevent the transit of terrorists to and from Iraq, arms for terrorists, and financing that would support terrorists, and re-emphasized the importance of strengthening the cooperation of countries in the region, particularly neighbours of Iraq, in this regard.

61. While the number of United Nations staff in Iraq is increasing gradually, the security environment is a constraint on the Organization's presence and its activities in Iraq. As detailed in my report of August 2004 (S/2004/625), United Nations personnel are operating under a number of robust protective measures, including enhanced minimum security standards for offices and residences, a strengthened security management structure, additional security training, and direct protection of facilities and movements by the Multinational Force. The limitations imposed by these measures should not be underestimated: movement outside the Baghdad international zone, or similarly well-protected compounds in other parts of the country, continues to be extremely hazardous and therefore dependent on the protection of the Multinational Force. Construction of additional facilities, both office and living space, is complicated by the need to ensure that it meets the stringent protective standards required for operations in an environment where explosive devices, suicide bombs and indirect fire are a constant threat. Locally recruited staff members are also severely constrained by security guidelines and precautions. Despite the abundance of important work to be done throughout the country, expansion must be undertaken with caution in light of the difficult security situation.

62. As described in previous reports, United Nations protection in Iraq is a shared responsibility of the Organization and of the Multinational Force. The Multinational Force provides direct protection to United Nations facilities and movements in Iraq pursuant to resolution 1546 (2004). It also provides essential operational support, including air transport and medical and other emergency responses. As at 31 August 2005, contingents from Georgia and Romania were deployed, in accordance with paragraph 10 of resolution 1546 (2004), to provide static and perimeter security at United Nations facilities in Baghdad and Basrah, respectively.

63. In Erbil, the contingent from the Republic of Korea continues to provide accommodation and protection to a United Nations liaison detachment pending completion of a separate United Nations facility now under construction. Adequate "middle ring" protection arrangements are being planned for the United Nations facility and movements for the Erbil presence. As at 31 August 2005, 14 Member States had contributed a total of $16.5 million to a trust fund established for the purpose of supporting a distinct entity ("middle ring") under unified command of the Multinational Force. The first payments to the contingents of the distinct entity are being made in accordance with the agreed mechanism and the fund's terms of reference.

64. While the Organization continues to rely exclusively on the Multinational Force for air transport, I have decided that United Nations activities, both current and intended, would be further secured if dedicated military air assets were to be provided. I am currently seeking these assets from Member States.

65. The UNAMI safety and security unit is complemented by a team of four United Nations military advisers, provided by Member States, who facilitate daily

liaison with the Multinational Force with respect to protection and security intelligence.

66. In time, the Government of Iraq is expected to play a progressively greater role in the maintenance of security and stability in the country. Great care, however, is essential to ensure that the United Nations presence, as long as it is confronted with an unabated threat and risk, continues to receive reliable, uncompromised and effective protection and other emergency support equivalent to that provided by the Multinational Force. Candid and timely sharing of plans, to include security-related information and assessments, is of vital importance in ensuring the full and uninterrupted protection of the United Nations presence in Iraq.

67. Security arrangements, which must be kept under constant review, will continue to determine to a considerable extent the scope and scale of what the United Nations can achieve. As mentioned in previous reports, putting the necessary safeguards in place so that the United Nations may operate safely in Iraq is a time-consuming and expensive process. Therefore, the continued understanding of Member States in allocating the necessary personnel, equipment and operating funds to UNAMI, and in providing contingents to the Multinational Force for purposes of United Nations protection, is very much welcomed.

B. Facilities and logistics

68. While UNAMI maintains offices in Iraq, Kuwait and Jordan, its primary focus has been consolidating its presence within Iraq. Despite logistical challenges and security constraints, steady and significant progress has been achieved in increasing the United Nations presence in Iraq.

69. The Mission has further developed its headquarters components. Plans are being finalized for the development of additional accommodation and logistics support facilities within the international zone in Baghdad. The realization of these plans depends on receipt of assurances from the Multinational Force that appropriate and adequate security measures will remain in place and available to the United Nations for the foreseeable future. My Special Representative and his team are exploring with both the Multinational Force and the Government of Iraq other possibilities for the provision of safe and secure accommodation.

70. A UNAMI presence has been established in Basrah and Erbil through United Nations liaison detachments. Premises are being refurbished in Basrah with the goal of completing construction by mid-November and achieving full occupancy by late December. The construction of permanent facilities in Erbil is at an advanced stage and it is anticipated that full occupancy will most likely occur by mid-October, subject to adequate security arrangements, including full "middle ring" protection.

71. The United Nations offices in Amman and Kuwait are well established and are providing valuable support to the Mission in Baghdad.

72. Logistical life support is being provided through contractual arrangements and through an agreement between the United Nations and the Government of the United States. The provision of similar support to staff of the specialized agencies, and the funds and programmes is managed under a common services agreement framework. UNAMI is making every effort to provide its own support and has already introduced many self-support contracts in Baghdad.

C. Agreements

73. A status-of-mission agreement with the Government of Iraq was signed on 3 June 2005. The agreement will enter into force after an exchange of notes between the parties confirming the approval of the agreement by the respective competent authorities. While a note from the United Nations was sent on 6 June 2005, a note from the Government of Iraq is still pending.

74. The memorandum of understanding between the Government of Kuwait and the United Nations is still awaiting ratification by the relevant authorities of the State of Kuwait. In a letter dated 12 August 2005, the Permanent Mission of Kuwait to the United Nations pointed out that the memorandum of understanding was still under consideration by the relevant authorities and expressed confidence that it would be ratified by the National Assembly of Kuwait during its next legislative session. It is imperative that this agreement be ratified to end the anomalous legal situation of UNAMI, despite the cooperation extended to UNAMI by the Government of Kuwait so far.

75. An agreement on the status of the UNAMI office in Jordan has been in place since August 2004.

76. The agreement with the United States of America concerning protection of the United Nations presence in Iraq by the Multinational Force is currently pending with the United States Department of Defense. Comments from the Department of Defense with respect to the agreement were received on 11 July 2005, and were reviewed by the Office of Legal Affairs, in consultation with my Special Representative and other Secretariat departments. A revised draft of the agreement was submitted to the United States on 30 August 2005. I look forward to the finalization of this important agreement, upon which the continued safety and security of the men and women who make up the United Nations presence in Iraq directly depends.

V. Observations

77. The constitutional process has engaged the Iraqi people in an unprecedented debate on key challenges facing their country, which generated significant political momentum despite the difficult circumstances in which the process has taken place. The delays in the formation of the transitional institutions and the Constitution Drafting Committee after the January elections, the protracted negotiations on the draft, diversions from previously agreed procedures, and the decision of some groups to withhold their support for the final text suggest that the process could have been made more inclusive, participatory and transparent and responsive to the needs and aspirations of the Iraqi people. Nevertheless, the writing of a new constitution has created a historic opportunity to develop the institutions and practices that will sustain democracy, promote the rule of law and improve living conditions and economic opportunities of all Iraqis.

78. There are however some fundamental issues that appear not to have been fully resolved through the constitution-making process so far. It is critical that all the different Iraqi communities and political entities continue to work together on these questions with a view to forging a broad political consensus through a democratic process, in which the fundamental interests of all concerned are protected. The

referendum and the elections, planned for October and December respectively, will offer yet another opportunity to engage in the shaping of Iraqi institutions.

79. I am pleased that circumstances permitted the United Nations to support the constitutional process in accordance with its mandate under Security Council resolution 1546 (2004). The United Nations will continue its efforts to provide the necessary support for the upcoming referendum and national elections. For the referendum, the United Nations will engage in a public education programme to enable the Iraqi people to make an informed choice. The United Nations also stands ready to provide technical advice and capacity-building for the institutions envisaged in the constitution. As highlighted at the donor meeting held at Amman in July, the planning, organizing and holding of the elections require approximately $107 million in international financial support in addition to the funds provided by the Government of Iraq. I urge Member States to contribute to meeting this requirement.

80. The constitution-making process also affirmed the need for an inclusive, participatory and transparent transition, to mitigate the volatile security environment, which has deteriorated in certain parts of the country. I continue to be gravely concerned about the increasing number of civilian casualties and serious injuries. Virtually no Iraqi has been left untouched by the prevailing level of violence. Continuing acts of terrorism, violent crime, including kidnappings and torture, and the adverse actions of security forces and paramilitary groups, represent a disconcerting source of human rights violations in the country. Civilians also suffer from a lack of protection of their civil, cultural, economic, political and social rights. Deficiencies in the administration of the justice system, particularly with respect to the handling of circumstances and conditions of detention, pose a major challenge. In addition, the lack of basic services and economic prospects furthers the perception among many Iraqis that the political process has so far not been able to fully deliver on its promise of a better life.

81. The Government of Iraq must ensure the appropriate and legitimate use of force by its security sector, and protect the human rights and fundamental freedoms of all Iraqi citizens. Developing the capacity of the Iraqi security forces to enable them to assume full responsibility for safeguarding their country's security, commanding the respect and trust of all Iraqi citizens, presents an ongoing crucial task and the full reintegration of local militias and paramilitary forces into this new Iraqi security apparatus is a necessary measure in this regard.

82. National reconciliation will remain the major challenge for the Iraqi people. Those groups that have so far stayed away from the political process need to be assured that their concerns will be addressed through national dialogue. In turn, they will need to provide assurances that they are committed to stand up and be counted against the violent pursuit of political objectives and, in particular, the deliberate targeting of innocent civilians, and to act in pursuit of the national interest of the Iraqi people as a whole. The success of Iraq's transition process will also be determined by the development of a regime of human rights, including minority and gender rights, which conforms to international standards and is accompanied by the supporting institutions and practices.

83. The international community has an important role to play in actively assisting the Government in meeting the expectations of the Iraqi people. Countries in the region and regional organizations bear a particular responsibility. Recent

international meetings, including the Iraq International Conference held in Brussels, the meeting of the International Reconstruction Fund Facility for Iraq held in Jordan, and ongoing regional initiatives provide hope of greater international convergence in support of the transition in Iraq.

84. Despite continuing severe operational and security constraints, the United Nations has been able to increase its international presence in Iraq more than tenfold since UNAMI resumed operations in Iraq in August 2004. For the remainder of 2005, staffing levels will be kept under review. Staff security, both national and international, remains the overriding guiding principle for all UNAMI activities in the fulfilment of its mandate both inside and from outside Iraq. The United Nations welcomes the assistance that the Multinational Force continues to provide in facilitating the United Nations presence in Iraq, and for the additional security of UNAMI facilities and personnel generously contributed by the Governments of Fiji, Georgia, the Republic of Korea and Romania. I expect that this support will be maintained in the future. The prospective and phased transfer of responsibilities from the Multinational Force to the new Iraqi security forces will create a new security environment which will have a significant impact on UNAMI operations. As the transfer unfolds, arrangements for our work environment, accommodation and life support will have to be reviewed carefully, taking full account of any changes in the security situation. Dedicated UNAMI air assets are necessary to further facilitate the Mission's operations.

85. Ultimately, it is incumbent upon the Iraqi political parties and groups to develop mutually beneficial approaches to resolving differences and responding to the demands of all constituencies. While pursuing their respective policy interests, communities must build bridges of hope and trust between one another with a view to strengthening their sense of nationhood and preserving the unity, territorial integrity, sovereignty and political independence of Iraq. Otherwise, rising sectarian tensions and violence hold the potential for escalation into serious civil strife.

86. Circumstances permitting, the United Nations will continue to assist the Iraqi people during this critical phase of their country's history in building the foundations for a peaceful, stable, democratic and united Iraq.

87. Finally, I wish to commend my Special Representative, Ashraf Qazi, for his leadership and his national and international staff, as well as agency personnel, for their dedicated work in implementing the UNAMI mandate under most challenging circumstances.